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Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators BURTENSHAW, Bayer, Nelson and,
Representatives KAUFFMAN, Andrus, Toone

FROM: Katharine Gerrity - Deputy Division Manager

DATE: August 03, 2021

SUBJECT: Temporary Rule

IDAPA 02.06.16 - Notice of Omnibus Rulemaking - Adoption of Temporary Rule - Docket No.
02-0616-2100

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

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IDAPA 02.06 – IDAHO HONEY COMMISSION

DOCKET NO. 02-0616-2100

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking as listed in the descriptive summary of this notice is July 1, 2021.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-2808, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting the temporary rule:

This temporary rulemaking adopts and re-publishes the following existing rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 02.06, rules of the Idaho Honey Commission:

IDAPA 02.06

- 02.06.16, *Rules Governing Honey Standards.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a), (b), and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This temporary rule is necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. This temporary rule implements the duly enacted laws of the state of Idaho, provides citizens with the detailed rules and standards for complying with those laws, and assists in the orderly execution and enforcement of those laws. The expiration of this rule without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by this rule.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Benjamin Kelly at (208) 888-0988.

DATED this 1st day of July, 2021.

Benjamin Kelley
Idaho Honey Commission
55 SW 5th Ave, Suite 100
Meridian, Idaho 83642
(208) 888-0988

02.06.16 – RULES GOVERNING HONEY STANDARDS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2808, Idaho Code. (7-1-21)T

001. TITLE AND SCOPE.

01. **Title.** The title of this chapter is IDAPA 02.06.16, “Rules Governing Honey Standards. (7-1-21)T

02. **Scope.** These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods. (7-1-21)T

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. **United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985.** The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades. See Section 016 of this rule. A copy of such federal standards is available at the following USDA Website <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3011895>. (7-1-21)T

005. -- 009. (RESERVED)

010. DEFINITIONS.

The Department adopts the definitions set forth in Section 22-2803, Idaho Code. In addition, as used in this chapter, the following definitions apply: (7-1-21)T

01. **Air Bubble.** The small visible pockets of air in suspension that may be numerous in the honey and contribute to the lack of clarity in filtered style. (7-1-21)T

02. **Bees.** Honey-producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae or other immature stages thereof. (7-1-21)T

03. **Comb.** The wax-like cellular structure that bees use for retaining their brood or as storage for pollen and honey. (7-1-21)T

04. **Crystallize.** The spontaneous solidification of the natural glucose content from solution as the monohydrate. (7-1-21)T

05. **Floral Source.** The flower from which the bees gather nectar to make honey. (7-1-21)T

06. **Food.** (7-1-21)T

a. Articles used for food or drink, including ice, for human consumption or food for dogs and cats; (7-1-21)T

b. Chewing gum; and (7-1-21)T

c. Articles used for components of any such article. (7-1-21)T

07. **Food Additive.** Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food. It also includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or experience based on common use in food to be safe under the conditions of its intended use. 'Food additive' does not include: (7-1-21)T

a. A pesticide chemical in or on a raw agricultural commodity; (7-1-21)T

- b.** A pesticide chemical to the extent that it is intended for use, or is used in the production, storage or transportation of any raw agricultural commodity; or (7-1-21)T
- c.** A color additive. (7-1-21)T
- 08. Granulate.** The initial formation of crystals in honey. (7-1-21)T
- 09. Honey.** The natural sweet substance produced by bees resulting from the harvest of plant nectar or plant secretions that has been collected and transformed by the deposition, dehydration, and storage in comb to ripen and mature. (7-1-21)T
- 10. Pollen Grain.** The granular, dust-like microspores that bees gather from flowers. Pollen grains in suspension contribute to the lack of clarity in filtered style. (7-1-21)T

011. COMPLAINT PROCESS.

- 01. Complaint Contents.** Complaints shall be directed to the department, in writing, and contain the following information: (7-1-21)T

 - a.** The name, address and contact information of the complainants; and (7-1-21)T
 - b.** The location and brand name of the product which is the subject of complaint. (7-1-21)T
- 02. Initial Review.** The department will forward written complaints to the commission for initial review. (7-1-21)T
- 03. Sampling and Analysis.** Upon review, the commission may request the department to acquire an official sample of the product, in accordance with Title 22, Chapter 28, Idaho Code, and send it to an analytical laboratory that possesses the ability to analyze honey for adulteration, or other testing deemed appropriate in accordance with the nature of the complaint. The laboratory analysis will be reviewed by the commission and the department for compliance with Title 22, Chapter 28, Idaho Code, and these rules. (7-1-21)T
- 04. Violations.** If, after investigation, the commission and the department find that a violation of title 22, Chapter 28, Idaho Code and/or these rules has occurred the commission and the department shall confer and agree on an appropriate course of action as authorized by Section(s) 22-2811 or 22-2812, Idaho Code. (7-1-21)T

012. -- 014. (RESERVED)

015. STANDARDS OF IDENTITY - HONEY.

Honey sold as such shall not have added to it any food additives, nor any other additions be made other than honey. It shall not have begun to ferment or effervesce and no pollen or constituent unique to honey may be removed except where unavoidable in the removal of foreign matter. (7-1-21)T

- 01. Treatments.** Chemical or biochemical treatments shall not be used to influence honey crystallization. (7-1-21)T
- 02. Moisture Content.** Honey shall not have a moisture content exceeding twenty-three percent (23%). (7-1-21)T
- 03. Sugars Content.** (7-1-21)T

 - a.** The ratio of fructose to glucose shall be greater than zero point nine (0.9). (7-1-21)T
 - b.** Fructose and glucose (Sum of Both) shall not be less than 60g/100g. (7-1-21)T
 - c.** Sucrose content for honey not listed below shall not be more than 5g/100g. (7-1-21)T

i. Honey from Alfalfa (*Medicago sativa*), Citrus spp., False Acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies Banksia (*Banksia menziesii*), Red Gum (*Eucalyptus camaldulensis*), Leatherwood (*Eucryphia lucida*), and Eucryphia milligani shall have sucrose levels not to exceed 10g/100g. (7-1-21)T

ii. Honey from Lavender (*Lavandula* spp.) and Borage (*Borago officinalis*) shall have sucrose levels not to exceed 15g/100g. (7-1-21)T

04. Name of the Food. Products conforming to the standard of identity as adopted in this rule are designated “honey”. Foods containing honey and any flavoring, spice, or other added ingredient or honey that is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of pure honey, shall be distinguished from honey in the food name by declaration of the food additive or modification. (7-1-21)T

a. Honey may be designated according to floral or plant source if it comes predominately from that particular source and has the organoleptic and physicochemical properties corresponding with that origin. (7-1-21)T

b. Where honey has been designated according to floral or plant source, as stated in Paragraph 015.04.a., then the common name or the botanical name of the floral source is used in conjunction with or joined with the word “honey”. (7-1-21)T

c. Honey may be designated according to the following styles, which style shall be declared on packaging: (7-1-21)T

i. “Honey” - this is honey in liquid or crystalline state or a mixture of the two (2); (7-1-21)T

ii. “Comb Honey” - this is honey stored by bees in the cells of freshly built brood-less combs and which is sold in sealed whole combs or sections of such combs. (7-1-21)T

iii. “Cut Comb in Honey,” “Honey with Comb,” or “Chunk Honey” - this is honey containing one (1) or more pieces of comb honey. (7-1-21)T

016. TYPES AND STYLES OF HONEY.

01. Extracted Honey. Honey that has been separated from the comb by centrifugal force, gravity, straining, or other means. It is identified in the following types: (7-1-21)T

a. Liquid Honey. Honey that is free of visible crystals; (7-1-21)T

b. Crystallized Honey. Honey that is solidly granulated or crystallized, irrespective of whether candied, fondant, creamed or spread types of crystallized honey; and (7-1-21)T

c. Partially Crystallized Honey. Honey that is a mixture of liquid honey and crystallized honey. (7-1-21)T

02. Styles. Extracted honey styles are: (7-1-21)T

a. Filtered Honey. Honey of any type defined in these standards that has been filtered to the extent that all or most of the fine particles, pollen grains, air bubbles, or other materials normally found in suspension, have been removed. Honey shall not be filtered to less than one point zero (1.0) micron. (7-1-21)T

b. Strained Honey. Honey of any type defined in these standards that has been strained to the extent that most of the particles, including comb, propolis, or other defects normally found in honey, have been removed. Pollen grains, small air bubbles, and very fine particles are not normally removed from strained honey. (7-1-21)T

c. Unfiltered/Unstrained - Unfiltered/Unstrained Honey. Honey that has not been filtered or strained by United States Standards for Grades of Extracted honey and may include extracted or non-extracted honey.

(7-1-21)T

d. Raw Honey. Honey that has not been pasteurized.

(7-1-21)T

017. -- 022. (RESERVED)

023. MISBRANDING.

Food labeled as a honey product, but not meeting the provisions of this rule may be subject to a stop sale order as authorized under Section 22-2812, Idaho Code.

(7-1-21)T

024. -- 999. (RESERVED)